



Investment Office

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December 17, 2007

AGENDA ITEM 4d

TO: MEMBERS OF THE INVESTMENT COMMITTEE

- I. SUBJECT:** Sudan Legislative Report
- II. PROGRAM:** Total Fund
- III. RECOMMENDATION:** Approve Report for transmittal to the Legislature
- IV. ANALYSIS:**

This agenda item seeks approval to submit to the California Legislature the annual report on companies with business operations in Sudan.

On September 25, 2006, AB 2941 (Chapter 442), Government Code section 7513.6, was signed into law. The legislation became effective January 1, 2007. The statute as enacted prohibits CalPERS from investing in companies that have business operations in Sudan and that meet certain other criteria as specified in the statute.

The statute requires CalPERS to hire a third party research firm to identify pertinent companies for engagement to determine whether each identified company meets the criteria for "active business operations in Sudan" and, if so, whether the company will take "substantial action." If after this engagement process has occurred, a company meets the active business operations criteria and has failed to take substantial action, the statute requires liquidation within 18 months, in a manner consistent with fiduciary responsibilities.

The statute also specifically states that CalPERS is not required to take action under the statute unless it determines in good faith that the action is consistent with its fiduciary responsibilities as described in California Constitution, article XVI, section 17.

The statute also requires CalPERS to file a report to the Legislature on this matter on or before January 1, 2008 and every year thereafter. Attachment 1 contains the draft report and transmittal letter.

V. STRATEGIC PLAN:

This legislation is not a product of CalPERS' Strategic Plan.

VI. RESULTS/COSTS:

The costs of implementing the Legislation will include the fees paid to the third party research firm, to identify on an ongoing basis any companies with business operations in Sudan – an amount of \$7,500 per year. Other costs include significant staff time to review, engage, and continually monitor companies, and potential costs (transaction costs and loss of capital as well as opportunity loss) associated with possible divestment as determined by the Investment Committee.

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